IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 14737 of 2005

Between:

1. Ganugula Viswanadham, S/o. (Late) Ganiraju,
   Mulasthanam (V), Alamuru (M), East Godavari District.
2. Ganugula Ramachandrarao, S/o. (Late) Ganiraju,
   Mulasthanam (V), Alamuru (M), East Godavari District.
3. Ganugula Chakravarthi, S/o. (Late) Ganiraju,
   Mulasthanam (V), Alamuru (M), East Godavari District.

..... PETITIONERS

AND

1 Govt. of A.P. Rep by its Principal Secretary,
Revenue (Endowments) Dept., Secretariat, Hyderabad.
2 The Commissioner, Endowments Department,
Government of A.P. Hyderabad.
3 The Asst. Commissioner, Endowments, Rajahmundry
4 Sri Malleswara Swamy Temple, Reptd. by its Manager,
Jonnada (V), Alamuru (M), East Godavari District.
5 The Regional Joint Commissioner, Endowments, (M.Z.I),
Kakinada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ, order or direction, declaring the action of the 4th Respondent in issuing the Notice No. Ni., dt. 13-4-2005 under Form - I (under Rule-5 (1) of G.O.Ms.No. 379 Revenue (Endowments IV) Department

Dt. 24-5-2003 by invoking the provisions of Section 83 of the Act 30/1987as un-constitutional, *ultra vires* the Section 83 of the Act 30/ 1987 and set-aside the same and further declare that the proposed action of the 4th Respondent to evict the petitioner from the agricultural land in Sy.No. 194 to an extent of Ac.5-88 cents situated at Mulasthanam Village, Almur Mandal, East Godavari District Sri Malleswara Swamyvari Devasthanam Jonnada, by conducting auction to be held on 08-7-2005 at 11a.m. by way of pamphlate Dt. 27-6-2005 issued by the 4th Respondent Manager and the order passed by the 3rd Respondent passed in M.A.NO. 568 / 2005 dt. 7-6-2005 as illegal, arbitrary, violative of fundamental rights guaranteed under the constitution of India and consequently direct the respondents not evict the petitioners herein from the aforesaid land and to pass such other order or orders as this Honourable court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.K.SATYANARAYANA MURTHY

Counsel for the Respondent Nos. 1, 2, 3 & 5: GP FOR ENDOWMENTS

Counsel for the Respondent No.4: --Not appeared--

The Court, at the stage of admission, made the following:

Oral order:-

The petitioners' father was a lessee of agricultural wet-lands in an extent of Ac.05-88

cents in R.S.No. 194 of Mulastanam village, belonging to Sri Malleswara Swami Temple, Jonnada village of Alamuru mandal, East Godavari district (for short 'the Temple'). On the demise of the father, the 1st petitioner claims to have been recognized as lessee by the Temple. In any event, the lease stood determined by the provisions of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') and the 4th respondent issued notice dated 13-04-2005 calling upon the 1st petitioner to handover the possession of the land, failing which action will be taken for his eviction. On receipt of the notice, all the petitioners submitted representations on 16-05-2005 claiming to be landless poor persons on the basis that they are in possession of 1/3rd extent of the land each, of the total extent of Ac.05-88 cents of wet land and claiming the benefits of landless poor persons under Section 82 (2) of the Act. The 3rd respondent, by the order dated 07-06-2005 rejected the 1st petitioner's claim on the ground that the 1st petitioner is a cultivating tenant of an extent of Ac. 05-88 cents of wet land and also owns Ac.0-47 of wet-land as per the certificate issued by the Mandal Revenue Officer concerned and, therefore, is not a landless poor person. Aggrieved by the said determination of the petitioners' status by the 3rd respondent, the petitioners filed representations before the 5th respondent, which were numbered as R.P.Nos. 199, 200 and 201 of 2005. No interim orders were granted in the review petitions.

By the 4th respondent's notification dated 27-06-2005, the lands of the Temple, including the lands which were earlier leased out in favour of the 1st petitioner, were notified for auction for grant of lease for a future term.

The petitioners' case is that in view of the pendency of their review petitions before the 5th respondent, claiming the status of landless poor persons and the benefits under Section 82 (2) of the Act, the respondents should not be permitted to proceed with the auction of the land, which would result in their dispossession.

The above contention is stated to be rejected. The 1st petitioner has already been determined as not being a landless poor person. It is not disputed that the lease was in favour of the 1st petitioner on the demise of his father. It cannot be disputed that under Section 82 of the Act a landless poor person is defined as including a

cultivating tenant of an extent not exceeding Ac. 02-50 cents of wetland. In the circumstances, the 1st petitioner is not entitled either on equity or law to resist the auction of the lands belonging to the Temple. The claim of the other petitioners for being landless poor persons is totally mis-conceived as they are not lessees. Under the legal architecture of the Act, in particular Section 82 of the Act, not every landless poor person in the country or State is entitled to the benefit of the provisions of Section 82 of the Act. It is only the lessees who qualify as landless poor persons who are entitled to such benefits. It is neither pleaded, urged or demonstrated that the 2nd and 3rd have ever been recognized as lessees of the lands of the Temple. However, the petitioners, if eligible and desirous may participate in the auction for the lease hold rights of the lands of the Temple.

In the aforesaid facts and circumstances of the case, there are no merits in the writ petition. The writ petition is, accordingly, dismissed at the stage of admission. No costs.

GODA RAGHURAM, J

Dt. 08-07-2005

Pvks/*

To

1. The Principal Secretary,
Revenue (Endowments) Dept.,

Govt. of A.P. Secretariat, Hyderabad.

2 The Commissioner, Endowments Department,
Government of A.P. Hyderabad.
3 The Asst. Commissioner, Endowments, Rajahmundry
4 The Manager, Sri Malleswara Swamy Temple,
Jonnada (V), Alamuru (M), East Godavari District.
5 The Regional Joint Commissioner, Endowments, (M.Z.I),
Kakinada.

6. 2 CCs., to the learned Government Pleader for Endowments, A.P. High Court Buildings, Hyderabad. (OUT).

7. 2 CD copies

*Form-NIC-OGS/WP{**RLD**}*